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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,435	03/26/2004	Yoshimasa Masuoka	500.43703X00	8102

20457 7590 12/12/2007

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EXAMINER	
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ART UNIT	**PAPER NUMBER**
2195	

MAIL DATE	DELIVERY MODE
12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,435	MASUOKA, YOSHIMASA	
	Examiner	Art Unit	
	Caroline Arcos	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on *26 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. JP 2003-086919.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *03/26/2004 and 10/15/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-8 are pending in the application.

Specification

2. The abstract of the disclosure is objected to because it doesn't describe the claimed invention in a way to understand the steps of the claimed invention. See MPEP § 608.01(b).

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. The specification is objected to because of the following informalities:

a. Page 5, line 14 "for individual actions", it should be "individual action.

Applicant is required to review the whole specification for any other mistakes. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 and 7-8 are rejected under 35 U.S.C. 101 because the claims are directed to non-statutory subject matter.

7. As per claims 1-6 and 7-8, the claims are non-statutory as fail to produce a "useful, concrete and tangible result." *State Street bank &Trust Co. v. Signature Financial Group Inc., 149 F. 3d 1368, 1373-74 (Fed. Cir 1998).* The claims are directed to nothing more than an algorithm, failing to indicate how the invention accomplishes a practical application. That is, the claims fall under the judicial exception of an "abstract idea", which is ineligible for patent protection.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a. As per claim 1, line 1-2, recites the limitation of "a method for generating policy rules ". However, this limitation was not supported or described in the specification.

b. As per claim 7, line 2-3; recites the limitation of "using policy rules". However, this limitation was not supported or described in the specification. Furthermore, the preemption is misleading because it is not describing the claimed invention.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following terms lacks antecedent basis:

i. The event – claim1, claim7.

b. The claim language in the following claims is not clearly understood:

i. as per claim 1,The body of the claim doesn't perform what set forth in the preamble. The claim recites generating policy rules; however the body of the claim doesn't generate any policy rules.

Furthermore, line1, it is unclear what is meant by "generating policy rules", there is not rule generation in the claim. It is not clearly understood the role of the policy rule.

Line 8, "an execution limit condition", it is unclear what is meant by the execution limit condition. Is it a target to be accomplished or a timeline or something different?

Line 9, it is unclear what is meant by "evaluating an amount of loss". It is not clearly understood how the evaluation will be done. Further more; it is not clearly understood whether "amount of loss" is a CPU time loss, resource loss, monetary loss or other type of loss.

Line 11, It is uncertain whether "an amount of loss" referred here is the same as "an amount of loss" of line 9 (i.e. if it is the same, it should be referred as said amount of loss).

Line 12, It is uncertain whether "Job execution condition", referred here is the same as "an execution limit condition" of line 8(i.e. if it is the same, it should be referred as said execution limit condition). Line 13, "special action", it is unclear what is meant by a special action, furthermore, "special event".

Line 14 "special one of said job", it is unclear what is meant by "special". Furthermore, it is not clearly understood the relation between "special one

of said job" and "one or more jobs "of line 10.

Line 18, It is uncertain whether "an action" referred here is the same as "a special action" of line 13. Furthermore, it is not clear how "minimizes the evaluated loss amount" will be done.

ii. As per claim 2, line 2, It is uncertain whether " a job execution condition" referred here is the same as "said job execution condition" claimed in claim 1.

iii. As per claim 3, it has the same deficiency as claim 1 and 2. Furthermore, line 5, it is unclear whether "said limit condition" referred here is the same as "said execution of limit condition" in claim 1(i.e. if it is the same, it should be referred as said execution limit condition).

iv. As per claim 4, line 3, it is not unclear how "using a delay time of job completion as an argument" and "the delay time of job completion is calculated). It is not clearly understood how the delay time is used as a function argument if it is not calculated in advance.

v. As per claim 5, line 9, it is not clearly understood whether " an amount of loss" referred here is the same as claimed in claim 1 or different amount of loss.

Line 10, it is not clearly understood whether "a special action" referred here is the same as claimed in claim 1 or different action.

Line 11, it is not clearly understood what is meant by "a subroutine describing the action in question". A subroutine usually contains codes to be executed and not description; in addition, it is unclear what is meant by

"the action in question".

iv. As per claim 6, has the same deficiency as claim 1. Furthermore, line 4, it is unclear what is the meaning by "executed at all schedule times", does it mean that the action is executed at all time even though the execution limit condition is met?.

vi. As per claim 7, has same deficiency as claim 1. Furthermore, line 2; it is unclear what is meant by "using policy rules". Where is it used from? Are these policy rules stored in the system? It is not clearly understood the role of the policy rules.

vii. As per claim 8, it has the same deficiency as claim 5.

Appropriate corrections are required.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 1-3, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (Walker)(US 5,963,911), in view of Bonnell et al.(Bonnell)(US 5,655,081).

14. As per claim 1, Walker teaches the invention as claimed including a method for generating policy rules which is adapted to automatically execute administration

during execution of one or more jobs in an information processing system by using the policy rules describing actions adoptable when an event such as a fault occurs comprising:

a step of preparing a job execution condition describing an execution limit condition (Col.6, lines 27-36; col.6, line 49) and a method of evaluating an amount of loss incurred when said execution limit condition is not met, in respect of each of the one or more jobs(Col.6, lines 53-63).

a step of evaluating an amount of loss by making reference to said job execution condition when a special action is taken in the event that a special event occurs in a special one of said jobs; and

a step of executing the step of evaluating an amount of loss in respect of all of plural actions prepared for said special job, and determining an action which minimizes the evaluated loss amount (Col. 4, lines 50-51; Col.7, lines 37-39).

15. Walker did not teach specifically that plural actions prepared for said special job and said special event.However, Bonnell teaches plural actions prepared for said special job and said special event (abs, 11-13; Col.2, lines 51-54; col.16, lines 53-56).

16. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Walker and Bonnell because Bonnell 's teaching of having plurality of actions prepared for said job and events would improve performance and stability of Walker's system by allowing the system to take

appropriate action for different event/jobs.

17. As per claim 2, Walker teaches the step of preparing a job execution condition includes a step of describing a requested complete time of the job as said execution limit condition (Col.6, line 49).

18. As per claim 3. Walker teaches the step of preparing a job execution condition includes a step of describing a function as the method of evaluating an amount of loss incurred when said limit condition is not met and the step of evaluating an amount of loss includes a step of executing said function(Col.6, lines 48-63; Fig. 16).

19. As per claim 5, Walker teaches a step of preparing a job execution schedule containing complete schedule times of said one or more jobs (col. 1, lines 63-64; Col.6, lines 49); and

wherein the step of evaluating an amount of loss when a special action is taken includes a step of executing a subroutine describing the action in question to modify said job execution schedule (Col.6, lines 53-65; Col.21, lines 3-8; col.21, lines 23-30).

20. Walker did not teach a step of describing each of said one or more actions as a subroutine for modifying said job execution schedule.

21. However, Bonnell teaches a step of describing each of said one or more actions as a subroutine for modifying said job execution schedule (Fig.10, 172).

22. As per claim 6, Walker teaches the step of determining an action which minimizes the evaluated loss amount is executed at all schedule times at which one or more jobs are being executed (Col.4, lines 50-51).

23. As per claim 7, Walker teaches a method for executing automatic administration of one or more jobs by using policy rules in an information processing system, comprising:

a step of preparing a job execution condition describing an execution limit condition (Col.6, lines 27-36; col.6, line 49) and a method of evaluating an amount of loss incurred when said execution limit condition is not met, in respect of each of the one or more jobs(Col.6, lines 53-63);

a step of evaluating an amount of loss by making reference to said job execution condition when a special action is taken in the event that a special event occurs in a special one of said jobs; and

a step of executing the step of evaluating an amount of loss in respect of all of plural actions prepared for said special job and determining an action which minimizes the evaluated loss amount (Col. 4, lines 50-51; Col.7, lines 35-40).

24. Walker did not teach specifically that plural actions prepared for said special job and said special event.

25. However, Bonnell teaches plural actions prepared for said special job and said special event (abs, 11-13; Col.2, lines 51-54; col.16, lines 53-56).

26. As per claim 8, Walker teaches a step of preparing a job execution schedule containing complete schedule times of said one or more jobs (col.6, lines 49); and

wherein the step of evaluating an amount of loss when a special action is taken includes a step of executing a subroutine describing the action in question to modify said job execution schedule (Col.6, lines 53-65; Col.21, lines 3-8; col.21, lines 23-30).

27. Walker did not teach a step of describing each of said one or more actions as a subroutine for modifying said job execution schedule.

28. However, Bonnell teaches a step of describing each of said one or more actions as a subroutine for modifying said job execution schedule (Fig.10, 172, 182).

29. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (Walker)(US 5,963,911), in view of Bonnell et al.(Bonnell)(US 5,655,081) and further in view of Aoshima et al.(Aoshima)(US 5,774,718).

30. As per claim 4, Walker teaches the invention including said function is a function using a delay time of job completion as an argument and in the step of executing said function (Col.6, lines 53-63). Neither walker nor Bonnell teaches the delay time calculation.

31. However, Aoshima teaches the delay time calculation (Fig.6; Fig.18).

It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Walker, Bonnell and Aoshima because Aoshima 's teaching of calculating the delay time would improve the system performance monitoring and fine tune the job scheduling by knowing the source of delay.

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Recovery support method for recovering from failure of an external storage device (US 20020129297 A1).

TITLE: Method of analyzing delay factor in job system (US 20040093254 A1).

TITLE: Method and apparatus for determining the performance of data processing device with the unsynchronized clocks (US 20020022945 A1).

TITLE: Error recovery method and apparatus in a computer system (US 6041425 A).

TITLE: Recovery support method for recovering from failure of an external storage device (US 20010029591 A1).

TITLE: System for multitasking management employing context controller having event

vector selection by priority encoding of context events (US 6205468 B1).

TITLE: Data processing system and method for high-efficiency multitasking (US 7089557 B2).

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caroline Arcos whose telephone number is 571-270-3151. The examiner can normally be reached on Monday-Thursday 7:00 AM to 5:30 PM.

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

35. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent examiner
Caroline Arcos

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